

COMMONWEALTH OF KENTUCKY
NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
FILE NO. BFA-24887-039
PERMIT NO. 898-0374
NONCOMPLIANCE NO. 512429
CESSATION ORDER NO. 053030

NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET

PLAINTIFF

VS.

SECRETARY'S ORDER

NALR COAL CORPORATION
AND
UTICA MUTUAL INSURANCE COMPANY

DEFENDANTS

* * * * *

THIS MATTER is before the Secretary upon the report and recommendation of the Hearing Officer, and the Secretary having considered said Report and Recommendation, and any exceptions and responses filed thereto, and being sufficiently advised,

IT IS HEREBY ORDERED AND ADJUDGED as follows:

1. The Hearing Officer's Report and Recommended Order filed in the record on //S//[04/23/02], is ADOPTED and incorporated by reference herein, as if set forth verbatim.
2. The Cabinet's unopposed motion to dismiss this action as moot is **SUSTAINED** and this action is **DISMISSED** without prejudice.
3. This is a FINAL and APPEALABLE Order.

ENTERED THIS _____ day of _____, 2002.

NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET

//S//[04/24/02]
JAMES E. BICKFORD
SECRETARY

APPEAL RIGHTS

In accordance with the provisions of KRS 350.0305 and KRS 350.032, any person or party aggrieved by a Final Order of the Secretary resulting from a hearing may obtain a review of the Final Order by filing in Circuit Court a Petition for Review. Such Petition must be filed within thirty (30) days after the entry or rendition of the Final Order, and a copy of the Petition must be served upon the Cabinet.

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing SECRETARY'S ORDER was, on this _____ day of _____, 20____, mailed by first-class mail, postage prepaid to:

NALR COAL CORPORATION
364 BRANHAM HEIGHTS
PIKEVILLE KY 41501-6703

NALR COAL CORPORATION
6737 ZEBULON HIGHWAY #1
PIKEVILLE KY 41501-6507

UTICA MUTUAL INSURANCE COMPANY
180 GENESEE STREET
NEW HARBOR NY 13413

HON. TAMARA PATRICK
Natural Resources and
Environmental Protection Cabinet
Office of Legal Services
Fifth Floor, Capital Plaza Tower
Frankfort, KY 40601.

DOCKET COORDINATOR

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COMMONWEALTH OF KENTUCKY
NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
FILE NO. BFA-24887-039
PERMIT NO. 898-0374
NONCOMPLIANCE NO. 512429
CESSATION ORDER NO. 053030

NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET

PLAINTIFF

VS. **HEARING OFFICER'S REPORT AND RECOMMENDED
SECRETARY'S ORDER**

NALR COAL CORPORATION
AND
UTICA MUTUAL INSURANCE COMPANY

DEFENDANTS

* * * * *

This matter is before the undersigned Hearing Officer upon the Cabinet's unopposed motion to dismiss this action, without prejudice, as moot. The basis of the Cabinet's motion is that the particular permit at issue has been transferred to another company, the transfer requires abatement of the violations which led to this bond forfeiture action, new performance bonds have been issued and, finally, the bonds at issue in this action have been released.

The Hearing Officer therefore recommends that the Secretary enter the attached tendered Order as his final Secretary's Order in this case which sustains the Cabinet's motion

and dismisses this action without prejudice as moot.

SO RECOMMENDED this 23rd day of April, 2002.

//S//[4/23/2002]

STEVE BLANTON, HEARING OFFICER
OFFICE OF ADMINISTRATIVE HEARINGS
35-36 FOUNTAIN PLACE
FRANKFORT, KENTUCKY 40601
(502) 564-7312

RIGHT TO FILE EXCEPTIONS

Pursuant to KRS 350.0301, any party may file Exceptions to this Report and Recommendation within fourteen days of service of this Report. Any party may submit a written response to the Exceptions within twenty-one (21) days of service of the Report and Recommended Order. Thereafter, the matter shall stand submitted to Secretary, who shall consider the Report, any Exceptions and Responses, and the Recommended Order and decide the case.

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing HEARING OFFICER'S REPORT AND RECOMMENDED SECRETARY'S ORDER was, on this _____ day of _____, 2002, mailed by first-class mail, postage prepaid to:

NALR COAL CORPORATION
364 BRANHAM HEIGHTS
PIKEVILLE KY 41501-6703

NALR COAL CORPORATION
6737 ZEBULON HIGHWAY #1
PIKEVILLE KY 41501-6507

UTICA MUTUAL INSURANCE COMPANY
180 GENESEE STREET
NEW HARBOR NY 13413

and hand-delivered to:

HON. TAMARA PATRICK
Office of Legal Services
Natural Resources and Environmental
Protection Cabinet
Fifth Floor, Capital Plaza Tower
Frankfort, Kentucky 40601

DOCKET COORDINATOR

Distribution:

DIVISION OF FIELD SERVICES/BFS
PIKEVILLE REGIONAL OFFICE
LTS
HEARING OFFICER, sb

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sb 4/19/02